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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,552	02/13/2002	Ryuji Biro	1232-4819	8407
27123	7590	03/22/2004	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 345 PARK AVENUE NEW YORK, NY 10154			O MALLEY, KATHRYN S	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/075,552

**Applicant(s)**

BIRO ET AL.

**Examiner**

Kathryn S. O'Malley

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/24/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 29 December 2003, with respect to the rejection(s) of claim(s) 10-12 and 16-20 under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Aoki and Matsumoto et al.
2. Applicant's amendment of claims 1, 3, 5, 6, and 13 filed 29 December 2003 have overcome the rejection of those claims presented in the office action mailed on 25 August 2003. New ground(s) of rejection follow.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1 and 3-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aoki in view of Matsumoto et al.
3. The invention of Aoki presents an optical element (39a-f) which is made from quartz or fluoride (col. 6, lines 43-52). The optical element is disposed in a container for the purpose of subjecting the element to a rinsing system and method. The rinsing system and method comprises a light-emitting unit 20 and a container 53b arranged so that the light-emitting unit 20 is outside the container 53b. The container 53b, which

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houses the optical element, enables irradiation from the light emitting unit 20 to enter the container 53b through a glass window 38 located on the container 53b. Aoki further presents an expose device for manufacturing and preparing photosensitive members and optical elements (col. 20, lines 53-67; and col. 21, lines 40-62) and teaches filling the apparatus with an inactive gas while the irradiation is transmitted to the container (col. 7, lines 21-27). As the irradiation rinses the optical element with ultraviolet rays from the light-emitting unit 20, the container 53b is filled with a gas containing oxygen (col. 8, lines 21-40). Regarding claim 5, the use of the phraseology "adapted to" does not constitute a positive limitation in a patentable sense. Hence, the recitation of claim 5, which states: "the optical element ... being usable in a wavelength region of 200 nm or less" only requires the optical element of Aoki to have the capability to perform in such a manner. Therefore, since the optical element of Aoki is made of the same materials as the Applicant's claimed optical element, it is deemed the invention of Aoki meets the aforementioned limitation of claim 5. Aoki does not teach the container 53b being disposed inside of and having an internal pressure higher than an outer container. Matsumoto et al. teaches a similar method and apparatus for irradiating comprising processing chamber 6a disposed inside an outer chamber 6 (col. 7, lines 9-15). As Matsumoto et al. teaches that having an inner chamber will keep more impurities from affecting processing, it would have been obvious to one of ordinary skill in the art to modify the irradiating apparatus and method of Aoki with the inner and outer chambers of Matsumoto et al. Matsumoto et al. further teaches controlling the pressure of inner chamber 6a depending on desired processing constraints (col. 6, line 61- col. 7, line 8).

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While Matsumoto et al. does not explicitly teach inner chamber 6a having a pressure higher than that of outer chamber 6, such a limitation would have been obvious to one of ordinary skill in the art since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

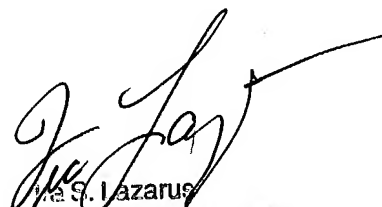
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn S. O'Malley whose telephone number is (703)308-2844. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KSO

  
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